

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA**

In re:

SPECIALTY RETAIL SHOPS HOLDING CORP., *et al.*,¹

Debtors.

)
) Chapter 11
)
) Case No. 19-80064-TLS
)
) (Joint Administration Requested)
)

**DEBTORS' REQUEST FOR
(I) AN EXPEDITED HEARING, (II) SHORTENED
NOTICE, AND (III) AN EXPEDITED RULING WITH
RESPECT TO DEBTORS' MOTION FOR AN ORDER
(I) AUTHORIZING THE DEBTORS TO SURCHARGE CERTAIN COLLATERAL,
(II) ALLOWING THE LENDERS' SECURED CLAIM IN AN AMOUNT THAT
ACCOUNTS FOR THE SURCHARGE, AND (III) GRANTING RELATED RELIEF**

Specialty Retail Shops Holding Corp. and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "Debtors"), respectfully make this request for shortened notice, expedited hearing, and expedited ruling (collectively, the "Requests") and state the following in support of these Requests:

Relief Requested

1. The Debtors seek entry of an order (the "Order"): (a) setting an expedited hearing on shortened notice with respect to *Debtors' Motion for an Order (I) Authorizing the Debtors To Surcharge Certain Collateral, (II) Allowing the Lenders' Secured Claim in an Amount that Accounts for the Surcharge, and (III) Granting Related Relief*, filed contemporaneously herewith

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Specialty Retail Shops Holding Corp. (0029); Pamida Stores Operating Co., LLC (6157); Pamida Transportation LLC (4219); Penn-Daniels, LLC (0040); Place's Associates' Expansion, LLC (7526); Retained R/E SPE, LLC (6679); Shopko Finance, LLC (1152); ShopKo Gift Card Co., LLC (2161); ShopKo Holding Company, LLC (0171); ShopKo Institutional Care Services Co., LLC (7112); ShopKo Optical Manufacturing, LLC (6346); ShopKo Properties, LLC (0865); ShopKo Stores Operating Co., LLC (6109); SVS Trucking, LLC (0592). The location of the Debtors' service address is: 700 Pilgrim Way, Green Bay, Wisconsin, 54304. The cases have been procedurally consolidated and are being jointly administered under the case caption listed above.

(Doc. No. ____) (the “Motion”); and (b) granting related relief. Specifically, the Debtors request that the United States Bankruptcy Court for the District of Nebraska (the “Court”) shorten the notice period and set an expedited hearing date of April 2, 2019, or as soon thereafter as the Court’s calendar allows, to hear and consider the relief requested pursuant to the Motion.

Jurisdiction and Venue

2. The United States Bankruptcy Court for the District of Nebraska (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and Nebraska General Rule 1.5 of the United States District Court for the District of Nebraska. The Debtors confirm their consent, pursuant to rule 7008 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), to the entry of a final order by the Court in connection with this motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

3. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The bases for the relief requested herein are Section 105(a) of the Bankruptcy Code, Bankruptcy Rule 9006(c) and 9013, and Rule 9006-1 of the Nebraska Rules of Bankruptcy Procedure (the “Local Rules”).

Background

5. The Debtors are engaged in the sale of general merchandise including clothing, accessories, electronics, and home furnishings, as well as company operated pharmacy and optical services departments. The Debtors are headquartered in Green Bay, Wisconsin, and, as of January 16, 2019, operated approximately 367 stores in 25 states throughout the United States, as well as e-commerce operations. The Debtors generated approximately \$2.6 billion in revenue in fiscal year 2017 and currently employ approximately 14,000 people throughout the United States.

6. The Debtors filed voluntary petitions for bankruptcy relief under Chapter 11 of Title 11 of the United States Bankruptcy Code on January 16, 2019 (the “Petition Date”). The Debtors continue to operate their business and manage their properties as debtors and debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No party has requested the appointment of a trustee or examiner in these chapter 11 cases.

7. The Motion requests that the Court (a) grant the Debtors authority to surcharge the Collateral (as defined in the Motion) for the costs that have been and may be incurred in connection with preserving or disposing of such Collateral to the extent allowed pursuant to the *Final Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, and 507 and Fed. R. Bankr. P. 2002, 4001 and 9014 (I) Authorizing Debtors and Debtors in Possession to Obtain Postpetition Financing, (II) Authorizing the Debtors to Use Cash Collateral, (III) Granting Liens and Providing Superpriority Administrative Expense Status, (IV) Granting Adequate Protection to the Prepetition Lenders, (V) Modifying the Automatic Stay, and (VI) Granting Related Relief* [Docket No. 425] (the “DIP Order”) and (b) allow the Lenders’ (as defined in the Motion) claim, including for voting purposes, in an amount that accounts for the Surcharge Costs (as defined below).

Basis for Relief

8. The Debtors’ Second Amended Chapter 11 Plan (the “Plan”) is set for hearing on confirmation on April 2, 2019. The Plan specifically contemplates—and is predicated upon—the filing of a separate motion to surcharge the Collateral. (Doc. 570, p. 21). As such, the Debtors believe it is necessary and appropriate to have the Motion and Plan heard at the same time.

9. An expedited hearing, shortened notice and an expedited ruling on the Motion will allow the Court and parties in interest to review and address any concerns they have with the proposed surcharge simultaneously with the Plan that contemplates the surcharge, thus promoting judicial efficiency.

10. Importantly, no party will be prejudiced by the relief requested herein. The potential for surcharging the Collateral was a key component of the DIP Order. *See* DIP Order, ¶ 4.3. The proposed surcharge is also clearly identified in the Plan. Moreover, the proposed surcharge has been discussed publicly and privately on numerous occasions. Indeed, at the hearings on February 7 and February 28, there were substantial discussions on the proposed surcharge, and the Debtors disclosed that they were considering filing the Motion. Simply put, the Lenders have been on notice of the Motion and, accordingly, will have plenty of time to prepare a response, if any.

11. Furthermore, the Debtors respectfully assert that the requested relief is consistent with what is provided for pursuant to Neb. R. Bank. P. 9006-1(A) and is necessary to ensure that the Debtors' continued compliance with the milestones of the DIP Facility.

12. The requested expedited hearing, shortened notice and expedited relief are reasonably calculated to preserve, maintain and protect the value of the Debtors' assets and estate.

13. Accordingly, the Debtors seek a shortened notice period with respect to the Motion and an expedited hearing and ruling on the Motion, with the hearing to be held on April 2, 2019, or as soon thereafter as the Court's calendar would allow.

Reservation of Rights

14. Nothing contained in this motion or any actions taken by the Debtors pursuant to relief granted in the Order is intended or should be construed as a waiver or limitation of the Debtors' rights under the Bankruptcy Code or any other applicable law.

Notice

15. The Debtors have provided notice of this motion to the following parties or their respective counsel: (a) the office of the U.S. Trustee for the District of Nebraska; (b) counsel to the Committee; (c) the agents under the Debtors' prepetition asset-based facility; (d) the agents

under the DIP Facility; (e) the agents under the Debtors' prepetition term loan facility; (f) the Internal Revenue Service; (g) the United States Securities and Exchange Commission; (h) the office of the attorneys general for the states in which the Debtors operate; (i) the United States Attorney's Office for the District of Nebraska; (j) and any party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

No Prior Request

16. No prior request for the relief sought in this motion has been made to this or any other court.

[Remainder of page intentionally left blank]

WHEREFORE, the Debtors respectfully request that the Court enter the Order granting the relief requested herein and such other relief as the Court deems appropriate under the circumstances.

Dated: March 13, 2019

/s/ Michael T. Eversden

James J. Niemeier (NE Bar No. 18838)

Michael T. Eversden (NE Bar No. 21941)

Lauren R. Goodman (NE Bar No. 24645)

MCGRATH NORTH MULLIN & KRATZ, P.C. LLO

First National Tower, Suite 3700

1601 Dodge Street

Omaha, Nebraska 68102

Telephone: (402) 341-3070

Facsimile: (402) 341-0216

Email: jniemeier@mcgrathnorth.com
meyersden@mcgrathnorth.com
lgoodman@mcgrathnorth.com

- and -

James H.M. Sprayregen, P.C.

Patrick J. Nash, Jr., P.C. (*admitted pro hac vice*)

Jamie Netznik (*admitted pro hac vice*)

Travis M. Bayer (*admitted pro hac vice*)

KIRKLAND & ELLIS LLP

KIRKLAND & ELLIS INTERNATIONAL LLP

300 North LaSalle

Chicago, Illinois 60654

Telephone: (312) 862-2000

Facsimile: (312) 862-2200

Email: james.sprayregen@kirkland.com
patrick.nash@kirkland.com
jamie.netznik@kirkland.com
travis.bayer@kirkland.com

- and -

Steven Serajeddini (*admitted pro hac vice*)

Daniel Rudewicz (*admitted pro hac vice*)

KIRKLAND & ELLIS LLP

KIRKLAND & ELLIS INTERNATIONAL LLP

601 Lexington Avenue

New York, New York 10022

Telephone: (212) 446-4800

Facsimile: (212) 446-4900

Email: steven.serajeddini@kirkland.com
daniel.rudewicz@kirkland.com

Co-counsel to Debtors